THE HON'BLE SRI JUSTICE L. NARASIMHA REDDY

WRIT PETITION No. 329 of 2006

DATED: 05.01.2006

Between:

G.Vasantha Kumari.

... PETITIONER

AND

Government of Andhra Pradesh and others.

... RESPONDENTS

ORDER:

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The petitioner was employed as a Typist in the year 1977 in the Commercial Taxes Department of the Government of Andhra Padesh, against a vacancy reserved in favour of Scheduled Tribe. Later on, she has been promoted and at present, she is holding the post of Assistant Commercial Tax Officer.

The District Collector, Prakasam District, 2nd respondent herein, initiated proceedings against the petitioner under Section 5 of the Andhra Pradesh (SC, ST & BCs) Regulation of Issue of Community Certificates Act, 1993. On the basis of the report submitted by the District Level Scrutiny Committee, the 2nd respondent cancelled the Caste Certificate issued to the petitioner through orders, dated 07.02.2004. Aggrieved thereby, the petitioner preferred an appeal

before the 1st respondent, along with an application for stay. Through order, dated 31.12.2004, the 1st respondent rejected the application for stay. The 3rd respondent issued a show cause notice, dated 28.10.2005, directing the petitioner to explain as to why she shall not be removed from service, in view of the cancellation of her Caste Certificate.

Sri D.V.Nagarjuna Babu, the learned counsel for the petitioner submits that the appellate authority rejected the application for stay without stating any reasons and if the petitioner is removed from service, on the ground that the appellate authority did not grant any stay, the very purpose of filing the appeal would be defeated. He contends that there are several infirmities in the order passed by the 2nd respondent.

The learned Government Pleader for Social Welfare and the learned Special Standing Counsel for Commercial Tax submit that the 1st respondent passed orders way back on 31.12.2004 and the petitioner had approached this Court belatedly. They contend that no prejudice can be said to have been caused to the petitioner, since she has been issued a show cause notice by the 3rd respondent.

Though the learned counsel for the petitioner had urged several contentions touching on the merits of the matter, this Court is not inclined to deal with the same at this stage. The petitioner had availed the remedy of appeal before the 1st respondent. It is true that the petitioner approached this Court, more than a year after the rejection of stay application. However, the reason for such delay approach appears that the petitioner did not feel any prejudice or threat to her service, till she was issued a show cause notice, dated 28.10.2005, by the 3rd respondent. If the petitioner is to be imposed penalty on the basis of the cancellation of Caste Certificate or rejection of application for stay, the very purpose of filing the appeal would be defeated. Even otherwise, the appeal has become ripe for disposal.

Hence, the Writ Petition is disposed of, directing that the order, dated 07.02.2004, passed by the 2nd respondent shall remain stayed, till the disposal of the appeal by the 1st respondent, and the appeal shall be disposed of within a period of six (6) weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

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05.01.2006

Jsu